UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In Re:	:	Case No. 14-57719
George Dib Haber	:	
	:	Judge: PRESTON
	:	
Debtor	:	Ch. 7

George Dib Haber
5317 Agate Place
Lewis Center, OH 43035,
Plaintiff,
v. Adv. Pro. No.

Clyde C. Hardesty, Chapter 7 Trustee
1763 Bryn Mawr Circle
Newark, OH 43055,
Defendant.

COMPLAINT FOR DECLARATORY JUDGMENT

Now comes plaintiff George Dib Haber ("Plaintiff") and for his Complaint against Clyde C. Hardesty, Trustee ("Defendant"), specifically states and avers as follows:

1. The Court's jurisdiction over this adversary proceeding is proper pursuant to the provisions of 28 U.S.C. § 1334, 28 U.S.C. § 157 and the General Order of Reference entered in this District.
2. The venue of this adversary proceeding is proper pursuant to the provisions of 28 U.S.C. § 1409.
3. This adversary proceeding is a core proceeding pursuant to the provisions of 28 U.S.C. § 157(a), (b)(1), (b)(2) (A) and (O), 11 U.S.C. §§ 541 and 554 and Federal Rules of Bankruptcy Procedure 7001(1), (2) and (9).

4. Plaintiff is an individual having his principal residence at 5317 Agate Place, Lewis Center, OH 43035 (hereinafter "Residence").

5. Plaintiff petitioned for relief under Chapter 13 of the Bankruptcy Code in this court on November 3, 2014, and converted to a case under Chapter 7 of the Code on January 7, 2015 (Case number 14-57719, "Bankruptcy Case").

6. Defendant was appointed as the Chapter 7 Trustee for the Bankruptcy Case on January 8, 2015, and reappointed on June 5, 2015, after Defendant re-opened the Bankruptcy Case on June 4, 2015.

7. Plaintiff scheduled an interest in the Residence in the Bankruptcy Case for $360,500.00 subject to secured claims of $617,627.61 that became property of the bankruptcy estate on November 3, 2014, when Plaintiff petitioned for relief under the Bankruptcy Code.

8. Creditor Home Ally Financial II, LLC filed a motion for relief from stay in Plaintiff's Bankruptcy Case on January 6, 2015 (Doc. 24) and an amended motion for relief on January 22, 2015 (Doc. 32), to pursue a foreclosure of the Residence, which was served on Defendant and provided, *inter alia*, copies of a Final Decree of Foreclosure and information about liens against the Residence.

9. Defendant did not respond to Home Ally Financial II, LLC's motion or amended motion for relief from stay and relief was granted on February 18, 2015 (Doc. 34).

10. Creditor Home Ally Financial II, LLC served Defendant with a Notice of Proposed Abandonment of the Residence on January 22, 2015 (Doc. 33), and Defendant abandoned the Residence on February 25, 2015 (Doc. 42).

11. The Residence ceased to be property of the bankruptcy estate in the Bankruptcy Case and all interests in the Residence vested in the Plaintiff upon Defendant's abandonment of the Residence on February 25, 2015.
12. On April 15, 2015, a sheriff's sale of the Residence occurred, which the Delaware County Common Pleas Court confirmed on May 11, 2015, and which resulted in surplus proceeds $80,311.15 that are in the possession or control of Defendant or counsel for Defendant.

WHEREFORE, Plaintiff requests that this Court:

1. Enter a declaratory judgment that Plaintiff is entitled to the proceeds that Defendant obtained from the Delaware County Common Pleas Court from the post-abandonment sale of the Residence;
2. Order Defendant to pay the proceeds in his possession or control from the sale of the Residence to Plaintiff;
3. And, Grant other such relief as the Court deems appropriate.

Respectfully submitted,

/s/ Michael A. Cox
Michael A. Cox 0075218
Guerrieri, Cox & Associates, LLC
2500 N. High St., Ste. 100
Columbus, OH 43202
614.267.2871
Fax: 614.267.2873
coxecf@columbusdebtrelief.com